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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,486	07/16/2007	Yasuchika Takei	TAKEI 54	9144
1444	7590	02/25/2009		
BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303			EXAMINER	
			GUTMAN, HILARY L	
		ART UNIT	PAPER NUMBER	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/574,486	<b>Applicant(s)</b> TAKEI ET AL.
	<b>Examiner</b> Hilary Gutman	<b>Art Unit</b> 3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 21 January 2009.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 2-7 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 2-7 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. The prior Advisory Action mailed 2/9/09 was sent in error and is hereby vacated.  
A final action on the merits is submitted herewith.

### ***Claim Objections***

2. Claim 6 is objected to because of the following informalities: on line 3, the phrase "is free of zigzag springs" is repetitive and should be deleted altogether. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 lines 2-3 recite an "elastic member" which is unclear. It is unclear if applicant intends the "elastic member" to be a "zigzag spring".

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 2-5 and 7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Nagata (5,011,109).

7. Claims 2-5 and 7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Harrington et al. (2,936,818).

8. Claims 3 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Ritchie et al. (6,371,456).

Ritchie et al. disclose a vehicle seat comprising: a base frame 64 arranged to be attached to a vehicle body 14; a movable plate 22 (102, 104) mounted to a front bracket of the base frame by a front mounting shaft 72, the movable plate being rotatable such that the rear end of the movable plate rotates vertically about the front mounting shaft; and a cushioning mechanism disposed between the base frame and movable plate; wherein the cushioning mechanism includes an upper connector 90, 92 connected to the movable plate and a lower connector 60, 62 connected to the base frame; wherein the upper connector and the lower connector are coupled to each other by a viscous material damper 201 and a spring 170, the damper being adapted to apply resistance to relative movement of the upper connector and the lower connector, and the spring being adapted to receive and support a load acting on the lower connector from the upper connector.

The movable plate is apparently furnished with a thin elastic member (Figure 3A) and the

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upper surface of the movable plate is free of zigzags and elastic members. As seen in an alternate embodiment in Figure 15, the cushioning mechanism can include an upper connector connected to the movable plate 22" near the rear end thereof at connection 874 and to a lower connector connected to the base frame 30" near a front end thereof.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nagata '109 as applied above and in view of Rupiper et al. (6,773,049).

Nagata apparently lack a thin elastic member on the upper surface of the movable place. Rupiper et al. teach a seat cushion 14a. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a thin elastic

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member as taught by Rupiper et al. for the plate of Nagata in order to provide comfort for occupants.

12. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harrington et al. as applied above and in view of Rupiper et al. (6,773,049).

Harrington et al. apparently lack a thin elastic member on the upper surface of the movable place. Rupiper et al. teach a seat cushion 14a. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a thin elastic member as taught by Rupiper et al. for the plate of Harrington et al. in order to provide comfort for occupants.

13. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ritchie et al. (6,371,456) as applied above and in view of Nagata (5,116,016).

Ritchie et al. lack the spring surrounding the damper. Nagata teaches a spring surrounding a damper in order to reduce vibration. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the spring surrounding the damper vibration reduction system of Nagata for the vehicle seat of Ritchie et al. in order to provide further vibration reduction for an occupant of the seat.

14. Claims 2, 4, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rupiper et al. (6,773,049) in view of Nagata (5,116,016).

Rupiper et al. disclose a vehicle seat comprising: a base frame 46 arranged to be attached to a vehicle body 10; a movable plate 42 mounted to a front bracket 50 of the

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base frame by a front mounting shaft, the movable plate being rotatable such that the rear end of the movable plate rotates vertically about the front mounting shaft; and a cushioning mechanism disposed between the base frame and movable plate; wherein the cushioning mechanism includes an upper connector connected to the movable plate and a lower connector connected to the base frame; wherein the upper connector and the lower connector are coupled to each other by a viscous material damper 120, 122 and a spring 70, 72, the damper being adapted to apply resistance to relative movement of the upper connector and the lower connector, and the spring being adapted to receive and support a load acting on the lower connector from the upper connector. The movable plate 42 is furnished with a thin elastic member 14a. And the upper surface of the movable plate is free of zigzags and elastic members.

Rupiper et al. lack the spring and damper being concentrically disposed wherein the spring surrounds the damper.

Nagata teaches a spring surrounding a damper in order to reduce vibration.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the spring surrounding the damper vibration reduction system of Nagata for the vehicle seat of Rupiper et al. in order to provide further vibration reduction for an occupant of the seat.

#### *Response to Arguments*

15. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 571-272-6662.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 571-272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hilary Gutman/  
Primary Examiner, Art Unit 3612